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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CR-12-0030-EMC (EDL)
	)	
Plaintiff,	)	
	)	UNITED STATES' RESPONSE TO
v.	)	DEFENDANTS' MEMORANDUM RE IN
	)	CAMERA REVIEW
ANTONIO JOSE DIAZ-RIVERA, a/k/a	)	
Jose Angel MONROY, a/k/a Magico,	)	
a/k/a Miguel,	)	
et. al.,	)	
	)	
Defendant.	)	

On January 10, 2014, this Court issued an order granting in part and denying in part the defendants' motion to compel discovery. The Court also ordered the United States to submit certain administrative subpoenas and their returns *in camera* for the Court to review, and allowed the parties to submit briefs if they so desired, to provide the Court with guidance for its *in camera* review.

The United States does not believe the Court needs any further briefing or guidance from the parties to conduct its *in camera* review. As the United States argued during the hearing in this matter, the subpoenas and returns that the United States anticipates submitting for the *in camera* review do not

1 constitute *Brady* material or Rule 16 material, and there is no other basis upon which the defendants are  
2 entitled to them. Indeed, the defendants already *have* all of the subpoena returns, in electronic format,  
3 and referred to them as an exhibit in their motion to compel discovery. Def. Motion to Compel, Exhibit  
4 R, Docket No. 230.

5         Nonetheless, the United States files this response to correct and clarify some matters raised by  
6 the defendants in their brief. First, the defendants, citing to 21 U.S.C. § 876, claim that the Court should  
7 ensure that all administrative subpoenas were issued by an attorney for the government. This is a new  
8 argument that was not raised during the hearing in this matter. In any event, it is not a very good one.  
9 Section 876 allows the “Attorney General” to subpoena witnesses; agents of the Drug Enforcement  
10 Administration are, of course, employees of the Attorney General. Nowhere does Section 876 require  
11 subpoenas to be issued specifically by an attorney for the government.

12         The defendants also ask the Court to require the United States to produce any returns to the  
13 administrative subpoenas in question in electronic format, so that the Court may examine any metadata.  
14 The United States is uncertain at this point whether it would be able to comply with any such order;  
15 some subpoena responses may have been received in paper format only, others in electronic format.  
16 Regardless, the United States will submit to the Court whatever it has in its possession that is responsive  
17 to the Court’s order. The United States hopes to be able to collect all responsive materials by the close  
18 of business on January 13, 2014. If there is any delay beyond that point, the United States will advise  
19 the Court accordingly.

20 DATED: January 10, 2014

Respectfully submitted,

21 MELINDA HAAG  
22 United States Attorney

23 /s/ S. Waqar Hasib  
24 S. WAQAR HASIB  
25 ALEXANDRA P. SUMMER  
26 Assistant United States Attorney  
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